

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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SHAUN ROSIERE,

Plaintiff,

V.

UNITED STATES OF AMERICA.

Defendant.

Case No. 2:16-cv-02286-GMN-PAL

ORDER

(Mots. – ECF Nos.
37, 47, 48, 49, 53, 55, 56, 57)

12 This matter is before the court on Plaintiff Shaun Rosiere's Motion for Summary Judgment
13 (ECF No. 37); Motion for Demand for Judgment (ECF No. 47); Motion to Stay Proceedings
14 Motion for Summary Judgment (ECF No. 48); Motion to Stay Proceedings (ECF No. 49); Motion
15 to Withdraw (ECF No. 53); Motion for Sanctions (ECF No. 55); Motion Challenging Jurisdiction
16 of Colorado District Court (ECF No. 56); and Motion to Stay Motion to Withdraw Document (ECF
17 No. 57). These Motions are referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(A) and
18 LR IB 1-3 of the Local Rules of Practice.

19 On May 23, 2016, Mr. Rosiere commenced this action by filing a complaint and motion
20 for leave to proceed *in forma pauperis* in the United States District Court for the Northern District
21 of California. It is an action filed under the Freedom of Information Act seeking documents from
22 two criminal cases filed against Rosiere in 2008 and 2009 in the District of New Jersey, and a civil
23 forfeiture action filed in 2005 in the District of Colorado. Defendant United States of America
24 (the “government”) filed a Motion to Dismiss for Improper Venue, or Alternatively to Transfer
25 Venue (ECF No. 12). On September 27, 2016, the court granted the government’s motion and
26 entered an order transferring this case to the District of Nevada where Rosiere resides. *See* Order
27 (ECF No. 33).

1 The government has now filed a second Motion to Dismiss (ECF No. 42). The motion to
 2 dismiss argues that this case is duplicative and “nearly-duplicative” FOIA litigation Rosiere has
 3 initiated in multiple federal districts and should therefore be dismissed as “malicious” under 28
 4 U.S.C. 1915(e)(2)(B)(i). The government’s motion to dismiss in this case points out that District
 5 Judge assigned to Rosiere’s District of Colorado case has dismissed his case as both duplicative
 6 of this action and a New Jersey FOIA case, 3:16-cv-00341-FLW-TJB.

7 On November 1, 2016, the court held a case management conference and hearing on the
 8 Rosiere’s Motion to Compel (ECF No. 38) and the government’s Motion to Stay (ECF No. 43).
 9 *See* Mins. of Proceeding (ECF No. 58). Mr. Rosiere appeared pro se and Patrick Rose appeared
 10 on behalf of the government. Mr. Rosiere explained that he is currently on federal supervision,
 11 and as a result cannot travel to New Jersey or Colorado where most of the documents he seeks are
 12 located, as his travel is restricted by the conditions of his supervision. He recently received a letter
 13 from government counsel in the District of New Jersey indicating that they would be addressing
 14 his FOIA requests in that district but wants to proceed with his case here because he has been
 15 making requests for years and still has not obtained all of the document and information he believes
 16 he is entitled to receive under FOIA. After hearing from both parties regarding the status of the
 17 case and related litigation in other districts, the court denied without prejudice Rosiere’s Motion
 18 to Compel and granted the government’s Motion to stay discovery and other proceedings, pending
 19 a decision on the government’s Motion to Dismiss ECF. No 42). *See* Mins. of Proceeding (ECF
 20 No. 58). The court set a status conference for February 7, 2017, at 10:00 AM.

21 The court will deny Rosiere’s pending motions without prejudice because the
 22 government’s motion to dismiss is potentially dispositive of the entire case, and because
 23 government counsel in the District of New Jersey, where Rosiere has another pending FOIA case
 24 is processing his requests for the same information sought here. Rosiere may refile motions
 25 authorized under the of the Federal Rules of Civil Procedure, the Local Rules of Practice, and
 26 applicable case law if the government’s motion to dismiss is denied.

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1 **IT IS ORDERED:**

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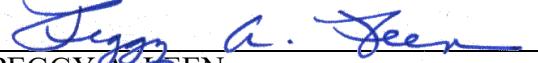
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- 1 Plaintiff Shaun Rosiere's Motion for Summary Judgment (ECF No. 37); Motion for Demand for Judgment (ECF No. 47); Motion to Stay Proceedings Motion for Summary Judgment (ECF No. 48); Motion to Stay Proceedings (ECF No. 49); Motion to Withdraw (ECF No. 53); Motion for Sanctions (ECF No. 55); Motion Challenging Jurisdiction of Colorado District Court (ECF No. 56); and Motion to Stay Motion to Withdraw Document (ECF No. 57). are **DENIED without prejudice.**
- 2 Discovery and other proceedings in this case are stayed pending decision of the government's Motion to Dismiss (ECF No 42).
- 3 A status hearing is set for **February 7, 2017 at 10:00 a.m.** The hearing will be vacated if the district judge has not yet decided the government's Motion to Dismiss.

Dated this 9th day of November, 2016.


PEGGY A. TEEN
UNITED STATES MAGISTRATE JUDGE